

A Resolution

NO. 3661-09-2008

**A RESOLUTION INCREASING THE MAXIMUM AMOUNT TO BE PAID TO
WHITAKER, CHALK, SWINDLE & SAWYER LLP FOR ASSISTING THE CITY
WITH LEGAL ISSUES REGARDING THE LAWSUIT STYLED: CITY OF FORT
WORTH V. ARCADIA PARK, L.P AND SITE CONCRETE, INC.
CAUSE NO. 153-222641-07.**

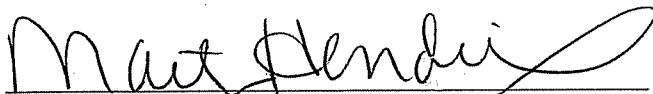
WHEREAS, on September 25, 2007, City Council approved M&C G-15872, adopting a resolution retaining Whitaker, Chalk, Swindle & Sawyer, LLP to provide the City legal services related to the lawsuit styled: City of Fort Worth v. Arcadia Park, L.P. and Site Concrete, Inc., Cause No. 153-222641-07 in the amount of \$50,000; and

WHEREAS, it is anticipated that additional legal services concerning the lawsuit styled: City of Fort Worth v. Arcadia Park, L.P. and Site Concrete, Inc., Cause No. 153-222641-07 will be needed requiring a \$50,000 increase to the total amount paid to Whitaker Chalk, Swindle & Sawyer, LLP thereby establishing the maximum amount of \$100,000.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE
CITY OF FORT WORTH, TEXAS:**

That the maximum amount authorized to be paid to Whitaker, Chalk, Swindle & Sawyer, LLP for legal services, including but not limited to, issues concerning the lawsuit styled: City of Fort Worth v. Arcadia Park, L.P. and Site Concrete, Inc., Cause No. 153-222641-07 is hereby increased by \$50,000 to an amount not to exceed \$100,000.

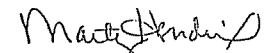
ADOPTED this 30th day of September, 2008.



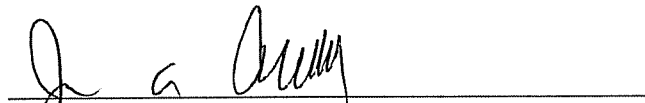
Marty Hendrix
City Secretary

APPROVED
CITY COUNCIL

SEP 30 2008


City Secretary of the
City of Fort Worth, Texas

APPROVED AS TO FORM:


Assistant City Attorney



CITY OF FORT WORTH

City of Fort Worth, Texas
Mayor and Council Communication

COUNCIL ACTION: Approved on 9/30/2008 - Res. No. 3661-09-2008 & Ord. No. 18309-09-2008

DATE: Tuesday, September 30, 2008
LOG NAME: 12ARCADIA PK2

REFERENCE NO.: **G-16287

SUBJECT:

Adopt Resolution Authorizing Increase in Payment to Whitaker, Chalk, Swindle and Sawyer, LLP, by \$50,000.00 to Represent the City in a Lawsuit Styled: City of Fort Worth v. Arcadia Park, L.P., and Site Concrete, Inc., Cause No. 153-222641-07 and Adopt Appropriation Ordinance

RECOMMENDATION:

It is recommended that the City Council:

1. Adopt the attached supplemental appropriation ordinance increasing appropriations in the Water and Sewer Fund by \$25,000.00 and decreasing the unreserved, undesignated fund balance by the same amount; and
2. Adopt a resolution authorizing the City Manager to increase payment to Whitaker Chalk, Swindle and Sawyer, LLP, by \$50,000.00 to represent the City in a lawsuit styled: City of Fort Worth v. Arcadia Park, L.P., and Site Concrete, Inc., Cause No. 153-222641-07. This lawsuit concerns allegations of improper trench compaction which led to premature street failure in the Arcadia Park subdivision.

DISCUSSION:

The City, through its outside counsel, filed suit against Arcadia Park, L.P., and Site Concrete, Inc. The matter was previously funded out of M&C G-15873, approved on September 25, 2007, in the amount of \$50,000.00. It is the recommendation of the City Attorney that an additional \$50,000.00 should be paid to Whitaker, Chalk, Swindle and Sawyer, LLP, for additional services rendered in this suit, not to exceed \$100,000.00.

FISCAL INFORMATION/CERTIFICATION:

The Financial Management Services Director certifies that upon approval of the above recommendations and adoption of the attached supplemental appropriation ordinance, funds will be available in the current operating budget, as appropriated, of the Water and Sewer Fund. Upon approval, the unaudited available cash balance of the Water and Sewer Fund will be \$8,496,439.00 which is the amount available above the minimum reserve cash balance of \$37,227,484.80 required by the City's Financial Management Policy Statements (i.e., 20 percent of the current-year adopted budget expenditures less debt service and capital projects).

TO Fund/Account/CentersPE45 531200 0601000\$25,000.00**FROM Fund/Account/Centers**PE45 531200 0601000\$25,000.00GG01 539120 0905500\$25,000.00

Submitted for City Manager's Office by:

Karen Montgomery (6222)

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Additional Information Contact:

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James A. Riddell (7614)